

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Barry A. Cohen,

Plaintiff,

vs.

Arnot Health, Inc., Arnot Ogden Medical Center, d/b/a
Arnot Health, and Eleanor Callanan, individually,

Defendants.

Verified Notice of Removal
3:22cv00178 (GTS/ML)

PLEASE TAKE NOTICE THAT:

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, and authorized by 42 U.S.C. § 12131 et seq. and 29 U.S.C. § 794, Defendants Arnot Health, Inc., Arnot Ogden Medical Center d/b/a Arnot Health and Eleanor Callanan (collectively “Defendants”), by their undersigned attorney (Robert C. Whitaker Jr.), hereby remove the above-captioned civil action and all claims and causes of action therein from the Supreme Court of the State of New York for Tompkins County (“Tompkins County Supreme Court”) to the United States District Court for the Northern District of New York. Defendants appear for the purpose of removal only and for no other purpose and reserve all rights, claims and defenses of any nature whatsoever, including but not limited to, defenses related to service of process, jurisdiction, venue and state as follows:

1. Plaintiff Barry A. Cohen (“Plaintiff”) filed a lawsuit with the Supreme Court of the State of New York, Tompkins County, titled “Barry A. Cohen v. Arnot Health, Inc., Arnot Ogden Medical Center, d/b/a Arnot Health, and Eleanor Callanan, individually” which was

assigned Index Number EF2022-0013 (hereafter the “State Court Action”). A copy of the Summons and Complaint filed in the State Court Action is attached as **Exhibit A**.

2. Arnot Health, Inc. and Arnot Ogden Medical Center d/b/a Arnot Health were first served with the Complaint in the State Court Action on or about February 7, 2022. A copy of the affidavits of service filed by Plaintiff in the State Court Action is attached as **Exhibit B**.

3. The State Court Complaint alleges violation of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 621 et. seq. and parallel claims under the New York State Human Rights Law. Thus, this Court has original jurisdiction under 28 U.S.C. § 1331 and this action can be removed by Defendants to this Court pursuant to 28 U.S.C. § 1441 because this action arises under federal law, namely the ADEA.

4. Defendants filed this Notice of Removal within thirty (30) days after the action became removable under applicable law and rules.

5. Defendants Notice of Removal is properly directed to this Court pursuant to 28 U.S.C. § 1446(a), because the State Court Action is pending within the territory of the Northern District of New York (e.g., Tompkins County). *See* 28 U.S.C. § 112(a).

6. No other process, pleadings or orders have been served on Defendants in the State Court Action besides the Complaint in the State Court Action, which is attached as Exhibit A. Thus, all requirements of 28 U.S.C. § 1146(a) have been met.

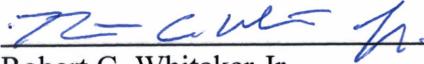
7. Defendants have or will pay all required filing fees for this removal.

WHEREFORE, Defendants respectfully request that the State Court Complaint now pending before the Tompkins County Supreme Court be removed to this Court.

I, Robert C. Whitaker Jr., verify under penalty of perjury pursuant to 28 U.S.C. § 1746,
that the foregoing is true and correct.

Dated: February 24, 2022

HANCOCK ESTABROOK, LLP


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